IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1669 OF 2006

1. Shandilya Properties Pvt.Ltd.& Anr.] .. Petitioners

Versus

1. The Hn.Presiding Officer, Debts Recovery Tribunal-I, Mumbai & ors.] .. Respondents

Mr. P.P. Sampat with Mr. Vinod Singh for the petitioners.

CORAM: R.M. LODHA, &
SMT. NISHITA MHATRE, JJ.

DATED: 08TH JANUARY, 2007

P.C. :

. We heard Mr. P.P. Sampat, the counsel for the petitioners. In O.A.No.165 of 2002 between Bank of Baroda and M/s. Tyche Bio-Medica Ltd. & Ors., on 9th September, 2004, the Debts Recovery Tribunal-I passed the following order:

> "1. The property described in Application is not a security of the Applicant bank. I am therefore, not inclined to appoint a Receiver, take physical possession and to sale the same. It is however, necessary to protect the property till the disposal of the Original Application. The Ad-interim Order passed below this Application in terms of prayer clause (a) and (c) is therefore, made absolute. In addition to that, prayer clause

(b) is granted. The Officer of the bank may act as a Commissioner to take necessary inventory.

2. It has been brought to my notice that despite granting prayer clause (c) of this Application and prayer clause (a) and (b) of Application Exhibit-18, the Defendants have not complied with the same.

3. The Defendants are directed to comply the orders passed on this Application on 28.4.2004 and below Exhibit 18 on 3.7.2003 within two weeks, failing which their defense would be struck off."

2. The present petitioners made the application for intervention and appropriate relief before the Debts Recovery Tribunal as, according to them, the property known as ‘Shandilya Villa’ owned by them was affected by the said order. On 19th October, 2005, the Debts Recovery Tribunal-I passed the following order:

"1. Application Exh.112 is dismissed.

2. Application Exh.110 is allowed.

3. M/s. IL&FS are appointed as Receiver on the immovable properties viz. Shandilya Villa, 41, Worli Seaface, Worli, Mumbai - 400025 and Shyam Bhavan, Gazdar Street, Mumbai - 400002.

4. The Receiver shall take the formal possession and take inventory of the properties.

5. If the Interveners are prepared to act as an Agent of the Receiver in respect of Shandilya Villa and the person in actual possession of Shyam Bhavan was prepared to

> act as agent of the Receiver in respect of this said property, the Receiver may fix appropriate royalty and allow them to continue in possession on payment of such royalty.
>
> 6. The Receiver to submit her report by next date."

3. The present petitioners preferred Appeal before the Debts Recovery Appellate Tribunal aggrieved by the order dated 19th October, 2005. On 13th March, 2006, the Debts Recovery Appellate Tribunal passed the following order:

> " The appeal shall be posted for admission on 23/6/2006. In the meanwhile, status quo shall be maintained, so far as the property 'Shandilya Villa' at 41, Worli Sea Face, Mumbai - 400 025 is concerned. Injunction order passed by MDRT on 9/9/2004 shall continue to be in operation and will be operative against the appellants also.
>
> . The Court Receiver is also allowed to take formal possession of the said property and to carry out inventory of entire property of Shandilya Villa."

4. The present petitioners filed Review Application seeking review of the order dated 13th March, 2006, which came to be dismissed on 31st March, 2006. Aggrieved thereby, the present Writ Petition has been filed.

5. Since the Appeal against the order dated 19th October, 2005 preferred by the petitioner before the Debts Recovery Appellate Tribunal is pending, we do not deem it fit to go into diverse aspects of the matter. However, suffice it to say that the order dated 31st March, 2006, passed by the Appellate Tribunal is imminently just and proper and warrants no interference by this Court in extra ordinary jurisdiction under Article 226 of the Constitution of India.

6. The Writ Petition is dismissed in limine.

Sd/-
[R.M. LODHA, J.]

Sd/-
[SMT. NISHITA MHATRE, J.]